

a case came up, unless I was very well satisfied of the guilt of the party, I should vote to return to him the forfeited estate.

Mr. CLARKE. Will the gentleman permit me one moment? If a traitorous son comes forward to take possession of the property, is not he in a position where he can be taken up, tried and convicted as a traitor, and have the property taken from him and confiscated as it was from his father?

Mr. SANDS. Out of all the men in Maryland who I believe have rendered assistance, by giving money or otherwise, to aid this rebellion, I do not believe any court or prosecutor in the State will convict one of them.

Mr. CLARKE. The gentleman believes that a great many have done these things, and he has denounced them at the ballot box and every where else, while they were just as loyal as he is. His opinion is no measure of the acts of any other man.

Mr. SANDS resumed. My opinion is just as good as that of any other man. I am not speaking of denouncing a whole class which I know to exist in Maryland, if the gentleman does not know it; but I am stating what I believe to be good law, and I am advocating a wholesome restriction upon these gentlemen, and I only regret that it is not in my power to produce the proofs in some of the cases.

I say that I believe a sovereign State has the absolute right to forfeit every right possessed by a traitor. I say further, that if the State chooses to give his family what was his, it is the act of the State in its generosity, and not upon legal or even moral considerations. But coming back to the point which was my argument Saturday, I reassert that no Government can exist except upon the safe and natural foundation of allegiance. And I say that all the protection that Government owes to life, to property, to anything that is a man's, depends upon the measure of his allegiance to that Government. If he has utterly renounced it, his property, all that is his, in strict right is gone. But if we choose in our legislative capacity, or in our capacity as a Convention, to say, "No; the plain legal, logical deduction shall not be carried so far as to crush innocent parties, no conviction of treason shall attain so as necessarily to work corruption of blood," for the shelter of all these innocent parties, that is the State's generosity. That is the State's leniency, and not a claim which the traitor or any one who takes his place has of right, either moral or legal, upon the Government against which he has committed treason. It is impossible that it should be so, any more than that the lesser should contain the greater. If protection rests solely upon allegiance, then if a man quits his allegiance, must not the protection quit him as absolutely?

Mr. CLARKE. Do I understand the gentleman as contending that under the Constitu-

tion of the United States, you have the right to forfeit property beyond the life of the party convicted?

Mr. SANDS. Yes, sir.

Mr. CLARKE. You have the right to do it under this provision of the Constitution?

Mr. SANDS. Yes, sir: just that right. "Congress shall have power to declare the punishment of treason; but no attainder of treason shall work," "shall work" of itself, without the independent action of Congress in the matter, from a stern necessity, "shall work corruption." I do not consider that to take away the power of Congress to punish treason because that power is expressly given in terms, in the preceding part of the clause, "Congress shall have power to declare the punishment of treason."

Mr. CLARKE. Do you not regard the last part as a limitation upon the power of Congress to declare the punishment of treason?

Mr. SANDS. Yes, sir: but conviction shall not work, of necessity, corruption of blood or forfeiture.

Mr. CLARKE. But has Congress the power to make the forfeiture extend beyond the life of the party convicted?

Mr. SANDS. I will express my opinion now if you desire it, upon that point. I say that under this constitutional provision, treason does not of necessity, of itself, in very fact, work absolute forfeiture.

Mr. CLARKE. Independent of Constitutional provisions, treason does not work anything.

Mr. SANDS resumed. I should prefer to make my argument, and let the gentleman answer it in his turn. The gentleman asked me for my opinion upon this subject, and I want to give it to him, and I don't care if it goes through the length and breadth of the land. I say that I do not consider this 2d clause of the 3d section of the 3d article to take from Congress the right to punish treason with absolute forfeiture. I say that, and I say it upon the very terms of the paragraph itself: "Congress shall have power to declare the punishment of treason." That is unrestricted, general, unlimited. But, says the Constitution of the United States, in its clemency, in its magnanimity, in its majesty, for the sake of these innocent women and children, we will not have it that conviction for treason shall absolutely work, by unavoidable necessity, corruption of blood and absolute forfeiture, except that it shall work this during the life of the person convicted. It shall absolutely work it for that time, but not alter of necessity; not taking from Congress the right which the preceding section gives it, to declare the punishment of treason. That is my opinion. Gentlemen can have it for what it is worth. I am willing to abide by it and maintain it.

So far as I am concerned, I want this doctrine embodied in the Constitution we are framing for the people of Maryland. I want